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SUBJECT: MORE MODERATE THAN EXPECTED MEDIA LAW PASSES LOWER
HOUSE

SUMMARY

¶1. (SBU) On May 22 the Lower House of Parliament passed the Media Law. The text is less restrictive than the law currently in force, based on a presidential decree. It allows foreigners to invest in all forms of media. Radio Television Afghanistan (RTA) will not be under direct Ministerial control (as previous drafts proposed), but will remain "within the structures of the state." The Chair of the High Media Council (HMC), responsible for setting general media policy, will be elected by members of the Council. It was previously proposed that the Minister of Information and Culture would be the permanent Chair. Concern about media licensing lingers since it will be decided by the Minister of Information, which gives him considerable control over who is allowed to open a new media outlet. As Parliament is scheduled to go on recess in two weeks, the Upper House may not vote on the law until August. END SUMMARY.

Upper House May Not Pass Bill Before Recess

¶2. (SBU) Having passed the Lower House on May 22, Afghanistan's amended Media Law now moves to the Upper House, which will have 15 days to approve the bill or propose amendments. The text is less restrictive than the current law, which came into force based on a Presidential decree prior to the Parliament coming into play. Parliament's summer recess is scheduled to begin on June 6, ten working days after the Upper House receives the bill. There has been speculation that the Parliamentary session will be extended, but thus far no action has been taken. If there are no suggested changes, the bill will then move to the President for signature. If amendments are proposed, a joint commission composed of MPs from each house will be formed to determine the final text of the bill.

High Council for Media Will Set Policy

¶3. (SBU) The High Council for Media (HCM) established in the law will set the general media policy for all media outlets. The Council will be comprised of members from various groups, including GOA representatives, journalists, and civil society members. The HCM Chair will be elected by HCM members. This is a positive change from previous drafts, which proposed that the Minister of Information and Culture be appointed permanent Chair. The election process allows the Council to carry out its mandate with a higher degree of independence from the Ministry than if the Minister had been appointed permanent Chair. The HCM will nominate candidates for the Commission for Media Affairs, the complaints committee created to examine and manage media-related complaints, and the head of state-run Radio Television Afghanistan (RTA) and will oversee RTA's budget. The President will approve these nominations.

Commission for Media Affairs Will Handle Complaints

¶4. (SBU) The law also establishes the Council for Media Affairs (CMA) to examine and investigate complaints and offenses. If the CMA is unable to settle a case, it will transfer cases to the relevant judicial authorities. According to the draft law, there will be a special court for media complaints. The specific composition and operation of the court remains to be determined. Investigation on cases is therefore entirely handled by the CMA instead of the Attorney General's office. The Commission will be composed of nine "professionals" from civil society groups, journalists, "intellectuals", and GOA representatives. Two

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Lower House and two Upper House Parliamentarians will be observers. The nine members will be nominated by the High Media Council and approved by the President.

Radio Television Afghanistan Commission Protects Integrity

¶5. (SBU) The Radio Television Afghanistan (RTA) Commission, also created in the law, will have responsibility for ensuring the independence of RTA is respected. RTA will not fall under direct Ministerial control, which is a positive development, but will remain "within the structures of the state." (Note: This phrase remains to be clarified. End Note). The RTA Commission will propose and implement the RTA budget, issue an annual report to the Lower House's Cultural and Religious Affairs Committee, and implement the RTA charter and policy designed by the High Council for Media. The Commission will be composed of one mullah, one lawyer, one engineer (type of engineer is not specified), two journalists, one civil society representative, and one "artist." The High Council of Media will propose the head of RTA, who will automatically chair the RTA Commission.

COMMENT

¶6. (SBU) The version that the Lower House passed is less restrictive than the law currently in force and certainly less restrictive than earlier drafts. Lingering concern over licensing remains as authority will be held by the Minister of Information, giving him considerable control over who is allowed to open a new media outlet. The EU, which has been very active in lobbying for several specific amendments to the law, agrees that the final draft is better than they expected, and noted that several of their proposed changes had been taken into account in the final draft. END COMMENT.
WOOD